

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SCOTT REIMER, Individually and On :  
Behalf of All Others Similarly :  
Situating, :  
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Plaintiff, :

07 Civ. 10526 (JFK)

ORDER

- against - :

FEDERAL HOME LOAN MORTGAGE CORP., :  
RICHARD F. SYRON, PATRICIA COOK, :  
ANTHONY PISZEL and EUGENE MCQUADE :  
Defendants :  
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USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 3-10-08

JOHN F. KEENAN, United States District Judge:

On February 4, 2008, Plaintiff Scott Reimer filed a Notice of Voluntary Dismissal, pursuant to Federal Rule 41(a)(1), withdrawing his Complaint without prejudice. At the time the Notice of Dismissal was filed, Defendants had not filed an Answer or otherwise appeared in the action.

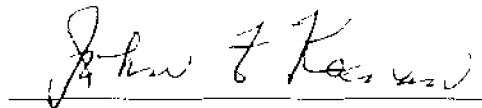
Subsequently, Defendants submitted a letter to the Court in which they objected to the dismissal. Defendants contended that, after the commencement of the present action, the Ohio Public Employees Retirement System ("OPERS") commenced a virtually identical action in the United States District Court for the Northern District of Ohio. Defendants argued that dismissal of this action, in favor of a second-filed lawsuit in which a different plaintiff asserted identical claims against identical defendants, constituted "an orchestrated effort to shop for the forum and judge of [Plaintiffs'] choice . . . ." (Defs. Letter, Feb. 13, 2008, at 1.)

Defendants do not, and cannot dispute, however, that Plaintiff Reimer has complied with the provisions of Rule 41(a). Defendants have failed to show why Reimer, who is distinct from OPERS, the plaintiff in the later-filed action in the Northern District of Ohio, is not entitled to withdraw his complaint, in light of the fact that Defendants have not yet answered or otherwise appeared.

Accordingly, Reimer's Rule 41(a) Notice of Voluntary Dismissal is valid. The complaint is dismissed, and the case is closed.

SO ORDERED

DATED: New York, New York  
March 10, 2008

A handwritten signature in cursive script, reading "John F. Keenan", is written over a horizontal line.

JOHN F. KEENAN

United States District Judge